IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 5080 of 2004(D)

PETITIONER:

V.S.JAYACHANDRAN, FOREST GUARD,
THALAPPUZHA FOREST STATION, THALAPPUZHA,
WAYANAD DISTRICT

BY ADV. SRI.M.SASINDRAN

RESPONDENTS:

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1. THE KERALA PUBLIC SERVICE COMMISSION,
THIRUVANANTHAPURAM-REPRESENTED BY ITS SECRETARY.

2. THE DISTRICT OFFICER,
KERALA PUBLIC SERVICE COMMISSION, WAYANAD DIST.

3. THE DIVISIONAL OFFICER, WAYANAD,
MANANTHAVADY.

4. STATE OF KERALA-REPRESENTED BY
SECRETARY TO GOVERNMENT, DEPARTMENT OF FOREST,
GOVERNMENT SECRETARIATE, THIRUVANANTHAPURAM.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/07/2007, THE COURT ON 24/07/2007 DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) No. 5080 of 2004-D

Dated this the 24th day of July, 2007.

J U D G M E N T

The petitioner is a member of the Kuruma community, which is a Scheduled Tribe. When the Public Service Commission invited applications by Ext.P1, for appointment to the post of Forest Guard, from among the Scheduled Tribe groups, who belong to Adivasis and solely dependent on the forest for their livelihood, the petitioner submitted application. The said application was entertained. He was selected and included in the rank list. He was adviced by the PSC, as per Ext.P5. He was appointed by the Forest Department by Ext.P6. While so, he has been served with Ext.P7 stating that he is not eligible for appointment as he was a Peon in a Co-operative bank in Sultan Battery. The petitioner submitted his reply stating that he belongs to a community which is solely dependent on the forest for their livelihood. So, even if he is not personally dependent on the forest, still he is eligible to get appointment as he belongs to a community solely dependent on the forest for livelihood. But, his objection was overruled and by Ext.P9 order his advice was cancelled. So, this writ petition is filed challenging Ext.P9. The petitioner reiterates the contentions raised by him in his objection, before the PSC. According to him, even if he is not dependent on the forest for his livelihood, he belongs to a community which is dependent on the forest for

livelihood.

2. The Public Service Commission has filed a counter affidavit resisting the prayers in the writ petition. According to the PSC, it is a special scheme for recruitment of Adivasis having certain qualifications for protection of forest. It is not a special recruitment for members of the Scheduled Caste. According to the PSC, the petitioner should belong to a group of Adivasis who are treated as Scheduled Caste and who are solely dependent on the forest for their livelihood. The petitioner also should be one who is dependent on the forest. Then only he is qualified to be appointed. It is also pointed out that several allegations were made against the selection post on which the petitioner and similarly placed persons were appointed. As per the direction of this court, the PSC conducted an enquiry and it is revealed that several persons who are ineligible in terms of the notification happened to be selected and adviced. The petitioner was one of them. Therefore, action was taken.

3. Heard the learned counsel on both sides. The learned counsel for the petitioner reiterated the afore-mentioned contentions. He also added that Ext.P1 notification provides that ex-servicemen are also eligible to apply. It means ex-servicemen drawing pension from the Central Government who cannot be said to be solely dependent on the forest are also eligible to apply. So, the said stipulation will support the contention of the petitioner. The learned counsel also pointed out that those who are in Government service

working in the same post in other districts are ineligible to apply. The learned Standing Counsel for the PSC submitted that the above conditions regarding eligibility of ex-servicemen to apply and the ineligibility of those working in other departments are all part of general conditions attached to all recruitments, made by the PSC. Those conditions were attached to the present notification also, though strictly speaking, many of them may not apply.

4. Having regard to the terms of notification and nature of the contention raised, I feel that this is a case where few views are possible. But, the view taken by the PSC should be given due respect, unless the same is shown to be perverse or no man with senses will take. So the view taken by the PSC regarding the purport of the notification is a plausible view. This court is not justified in interfering with the same, under Article 226 of the Constitution of India. Accordingly, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,
JUDGE.

MS